

76-9-301.6 Dog fighting exhibition -- Authority to arrest and take possession of dogs and property.

- (1) A peace officer as defined in Title 53, Chapter 13, Peace Officer Classifications, may enter any place, building, or tenement where an exhibition of dog fighting is occurring, or where preparations are being made for such an exhibition and, without a warrant, arrest all persons present.
- (2)
 - (a) Notwithstanding the provisions of Section 76-9-305, any authorized officer who makes an arrest under Subsection (1) may lawfully take possession of all dogs, paraphernalia, implements, or other property or things used or employed, or to be employed, in an exhibition of dog fighting prohibited by Subsection 76-9-301(2)(e) or Section 76-9-301.1.
 - (b) The officer, at the time of the taking of property pursuant to Subsection (2)(a), shall state his name and provide other identifying information to the person in charge of the dogs or property taken.
- (3)
 - (a) After taking possession of dogs, paraphernalia, implements, or other property or things under Subsection (2), the officer shall file an affidavit with the judge or magistrate before whom a complaint has been made against any person arrested under this section.
 - (b) The affidavit shall include:
 - (i) the name of the person charged in the complaint;
 - (ii) a description of all property taken;
 - (iii) the time and place of the taking of the property;
 - (iv) the name of the person from whom the property was taken;
 - (v) the name of the person who claims to own the property, if known; and
 - (vi) a statement that the officer has reason to believe and believes that the property taken was used or employed, or was to be used or employed, in violation of Section 76-9-301 or 76-9-301.1, and the grounds for the belief.
- (4)
 - (a) The officer shall deliver the confiscated property to the judge or magistrate who shall, by order, place the property in the custody of the officer or any other person designated in the order, and that person shall keep the property until conviction or final discharge of the person against whom the complaint was made.
 - (b) The person designated in Subsection (4)(a) shall assume immediate custody of the property, and retain the property until further order of the court.
 - (c) Upon conviction of the person charged, all confiscated property shall be forfeited and destroyed or otherwise disposed of, as the court may order.
 - (d) If the person charged is acquitted or discharged without conviction, the court shall, on demand, order the property to be returned to its owner.

Amended by Chapter 292, 2008 General Session